Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte PAUL J. FREDERICK

Appeal No. 2002-0714
Application No. 09/452,952

ON BRIEF

Before THOMAS, KRASS, and GROSS, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 1 through 14. Representative claim 1 is reproduced below:

> 1. A method for distributing video images of a racing event comprising the steps of
>
> providing each of a plurality of participants in said event with a video camera,
>
> providing each of said cameras with a respective transmitter for transmitting information regarding video images generated by the camera,

providing retransmission equipment for receiving information transmitted by the transmitter and directing information regarding video images from each of the plurality of cameras to respective channels for remote viewing at viewer's locations,

providing channel selectors that permit viewers to select from among the channels,

simultaneously operating said cameras during the event so as to generate a plurality of camera feeds during the event, each feed reflecting a perspective of a respective participant,

transmitting the plurality of feeds to the retransmitting equipment, and

retransmitting the feeds to said channels, such that each of a plurality of viewers is allowed to select from a plurality of said channels to thus enable viewing of the event through the perspective of one or more participants of greatest interest to the particular viewer.

The following references are relied upon by the examiner:

Matthews, III (Matthews)	5,600,368	Feb. 4, 1997
Vancelette	5,894,320	Apr. 13, 1999

Claims 1 through 14 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Matthews alone as to claims 1, 4 through 6, 10 and 12 through 14, with the addition of Vancelette as to claims 2, 3, 7 through 9 and 11.

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and reply brief for appellant's positions and to the examiner's answer for the examiner's positions.

OPINION

For the reasons set forth here we reverse the rejections of all claims on appeal under 35 U.S.C. § 103.[1]

Independent claim 1 on appeal requires in part "providing each of a plurality of participants in said event with a video camera." A similar feature is provided in independent claim 14 on appeal which requires in part "a plurality of video cameras mounted on participants in sporting events."

On the one hand, the examiner appears to assert at pages 3, 7 and 8 of the answer that Matthews provides each of a plurality of participants in a sporting event with a video camera. We find no such teaching or even a suggestion of providing each participant in a sporting event with his or her own video camera which is selectively viewable by a viewer as required in each of independent claims 1 and 14 on appeal.

On the other hand, we agree with appellant's views expressed at pages 6 and 7 of the principal brief on appeal and at page 3 of the reply brief. Appellant's arguments at these locations emphasize and are consistent with the earlier quoted recitations

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[1]This reversal was conveyed to appellant's representative by telephone on January 22, 2003, thus obviating the need for appellant's attendance at the hearing on this appeal scheduled for January 23, 2003.

of each of independent claim 1 and 14 on appeal. The essence of the claimed method and system permits the viewer to watch a given sporting event or race from the perspective of the participant rather than looking at one of the participants as in the teachings and showings in Matthews. As best stated at the top of page 3 of the reply brief, "Matthews teaches cameras pointed at the participants, not from the perspective of the participants." We do not regard the claimed feature of each of the participants in a sporting event having a video camera provided to him or her or otherwise mounted on an actual participant as a mere change of camera angle to the extent argued by the examiner in the answer.

Since we agree with the appellant's general observations as to the teachings and showings in Matthews and from our own study of it, we are constrained to reverse the rejection of independent claims 1 and 14 under 35 U.S.C. § 103 over Matthews alone. Because Vancelette does not make up for these deficiencies, the rejection of the remaining dependent claims must also be reversed.

We note in passing that the examiner appears to make mention of prior art video games and helmet cameras installed on race cars and on earlier football league players dating back to 1990 according to the views expressed at the bottom of page 4 of the

answer. In a similar vain, appellant makes similar observations that it was known in the art that cameras may travel with race cars and may even be placed or mounted on helmets of the drivers as expressed initially at the top of page 2 of the background of the invention portion discussion in the specification as filed. Beyond these mere assertions by the examiner and these admissions by appellant not relied on by the examiner, there is no documentary evidence before us to consider as a basis for these assertions. Because the record reflects that there may be some evidence of providing each of a plurality of participants of a sporting event with a video camera and because the examiner has not formally set forth a rejection relying upon what may or appears to be known in the art, we also remand this application to the examiner for consideration of all of this evidence in the formulation of a new ground of rejection, even perhaps in view of additional prior art not of record. We will not do this on our own within 37 CFR § 1.196(b). The examiner must fully develop, if he or she so chooses, a sound evidentiary basis.

In view of the foregoing, the decision of the examiner rejecting claims 1 through 14 under 35 U.S.C. § 103 is reversed.

REVERSED and REMANDED

JAMES D. THOMAS)
Administrative Patent Judge)
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) BOARD OF PATENT
ERROL A. KRASS) APPEALS AND
Administrative Patent Judge) INTERFERENCES
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ANITA PELLMAN GROSS)
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